

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

|                              |   |                              |
|------------------------------|---|------------------------------|
| DAVID R. MYRLAND,            | ) | CIVIL 18-00120-JMS-RLP       |
|                              | ) |                              |
| Plaintiff                    | ) |                              |
| ["Complainant and Affiant"], | ) |                              |
|                              | ) |                              |
| vs.                          | ) | FILED IN THE                 |
|                              | ) | UNITED STATES DISTRICT COURT |
| HELEN GILLMOR, REBECCA ANN   | ) | DISTRICT OF HAWAII           |
| PERLMUTTER, DEREK KIM,       | ) | March 28, 2018               |
|                              | ) |                              |
| Defendants.                  | ) | At 3 o'clock and 25 min p.m. |
|                              | ) | SUE BEITIA, CLERK            |
|                              | ) |                              |

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**DEFICIENCY ORDER**

Plaintiff, proceeding pro se, has filed a Complaint in this court that was not accompanied by either a filing fee or an application to proceed *in forma pauperis*. Parties instituting a civil action, suit or proceeding in a United States District Court, other than a writ of habeas corpus, must pay a filing fee of \$350.00 and an administrative fee of \$50.00. See 28 U.S.C. § 1914(a) and District Court Miscellaneous Fee Schedule, ¶ 14 (effective December 1, 2013). This administrative fee does not apply to applications for writ of habeas corpus or to persons who are granted *in forma pauperis* status under 28 U.S.C. § 1915. An action may only proceed without concurrent payment of the filing fee if the party is granted leave to proceed *in forma pauperis* ("IFP"). 28 U.S.C. § 1915(a); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Plaintiff is advised that he or she must either pay the statutory filing fee of \$350.00 and the administrative fee of

\$50.00, or submit a fully-completed *in forma pauperis* application within twenty eight days (including weekends and holidays) of this Order. Failure to do so will result in **AUTOMATIC DISMISSAL**, of this action for failure to prosecute or otherwise follow a court order. See Fed. R. Civ. P. 41(b); *Olivares v. Marshall*, 59 F.3d 109, 112 (9th Cir. 1995)(stating that the district court may dismiss a complaint for failure to pay partial filing fee); *In re Perroton*, 958 F.2d 889, 890 (9th Cir. 1992) (affirming dismissal of appeal of pro se litigant for failure to pay required filing fees).

IT IS HEREBY ORDERED that:

1. The Clerk of Court is **DIRECTED** to send Plaintiff an appropriate copy of the Court's Application to Proceed *in forma pauperis* with the accompanying information sheet.
2. Plaintiff is GRANTED twenty eight days to either pay the \$400.00 filing fee or submit a completed and executed application to proceed *in forma pauperis* on the forms provided by the court with this Order. The application must bear the docket number assigned to this case. Failure to timely file an *in forma pauperis*

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application or the statutory filing fee within twenty eight days of the date of this Order will result in **AUTOMATIC DISMISSAL** of this action.

IT IS SO ORDERED.

DATED: March 28, 2018 at Honolulu, Hawaii,



/s/ J. Michael Seabright  
J. MICHAEL SEABRIGHT  
CHIEF UNITED STATES DISTRICT JUDGE